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5 Attorneys for Defendants
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
6 ALBORG, VEILUVA & EPSTEIN, LLP and GENPACT MORTGAGE SERVICES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 KENNETH BARKER and LOIS ANNE
BARKER,

Plaintiffs,

VS.

15 DEFAULT RESOLUTION NETWORK;
16 FIDELITY NATIONAL TITLE; MORTGAGE
17 ELECTRONIC REGISTRATION SYSTEMS,
 INC.; ALBORG, VEILUVA & EPSTEIN;
 TITLE COURT SERVICES, INC.; GENPACT
 MORTGAGE SERVICES; and DOES 1
 through 50, inclusive.

Defendants.

Case No. 4:08-cv-02898-CW

**DECLARATION OF DARRELL C.
MARTIN AND REQUEST FOR
JUDICIAL NOTICE [Fed. R. Evid. 201]**

Date: August 5, 2008
Time: 2:00 p.m.
Dept.: 2

Judge: The Hon. Judge Claudia Wilken

Complaint Filed: June 10, 2008

21 I, DARRELL C. MARTIN, declare:

22 1. I am associated with the law firm of Alborg, Veiluva & Epstein LLP, counsel for
23 defendants ALBORG, VEILUVA & EPSTEIN, LLP (“AVE”), MORTGAGE ELECTRONIC
24 REGISTRATION SYSTEMS, INC. (“MERS”), and GENPACT MORTGAGE SERVICES
25 (“Genpact”) (collectively the “Alborg Defendants”) in this action. This declaration is made in
26 support of the Alborg Defendants’ Motion to Dismiss, and this request for judicial notice made
27 under Federal Rule of Evidence, section 201.

2. Attached hereto as Exhibit "1" is a true and correct copy of a Summons and Complaint (including all exhibits thereto) filed in the Superior Court for the State of California in Contra Costa County under the caption *Kenneth Barker and Lois Anne Barker v. Default Resolution Network, et al.* (Case No. N08-0822) and referenced by the Alborg Defendants in its Motion to Dismiss papers.

3. Your declarant was served with this Summons and Complaint, and declare that it is a true and accurate copy of official records of the Superior Court for the State of California in Contra Costa County.

4. Judicial notice is requested to be taken of the fact of the filings and the fact of the assertions stated therein, but not of the truth of the matters asserted.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the United States, and that this declaration is made this 2nd day of July, 2008, in Walnut Creek, California.

Dated: July 1, 2008

Respectfully submitted,

ALBORG, VEILUVA & EPSTEIN

By: /s/ Darrell C. Martin

MICHAEL J. VEILUVA

DARRELL C. MARTIN

Attorneys for Defendants MORTGAGE

ELECTRONIC REGISTRATION SYSTEMS, INC.
ALBORG, VEILUVA & EPSTEIN, LLP and
GENPACT MORTGAGE SERVICES

PROOF OF SERVICE

I declare that I am employed in the County of Contra Costa, State of California. I am over the age of eighteen (18) years and not a party to the within entitled case, and my business address is Alborg, Veiluva & Epstein LLP, 200 Pringle Avenue, Suite 410, Walnut Creek, California 94596. On the date set forth below I served the foregoing document described as **DECLARATION OF DARRELL C. MARTIN; REQUEST FOR JUDICIAL NOTICE** [Fed. R. Evid. 201] on interested parties in this action in the manner(s) indicated below:

[x] **(OFFICE MAIL)** placing true and correct copies thereof enclosed in a sealed envelope(s), with first class postage fully prepaid, for collection and mailing at 200 Pringle Avenue, Suite 410, Walnut Creek, California 94596 addressed as set forth below. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so placed would be deposited with the United States Postal Service that same day in the ordinary course of business.

[] (**FACSIMILE**) transmission to a facsimile machine maintained by the person(s) on whom it is served at the facsimile machine telephone number as last given by that person(s) on any document filed in the case and served on the party making service.

[] (**OVERNIGHT DELIVERY**) placing true and correct copies thereof enclosed in a sealed envelope(s), for overnight delivery, in a box or other facility regularly maintained by an express service carrier, or delivered to an authorized courier or driver authorized by that express service carrier with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served, at the office address as last given by that person(s) on any document filed in the case and served on the party making service or at that party's place of residence.

Plaintiffs in Pro Per

Kenneth Barker
Lois Anne Barker
2349 Royal Oaks Drive
Alamo, CA 94507
Tel: (925) 820-0198
Fax: (925) 820-0198

I declare that the foregoing is true and correct and that this declaration was executed in Walnut Creek, California on **July 2, 2008**.

/s/ Jan Baerwald

Jan Baerwald

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT: Default Resolution Network,
(AVISO AL DEMANDADO): Fidelity National Title,
 Mortgage Electronic Registration Systems, Inc.,
 Alborg, Veiluva & Epstien, Title Court Systems, Inc.,
 Genpact Mortgage Services, Does 1 through 50 Inclusive.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Kenneth Barker and Lois Anne Barker

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)RECEIVED
MAY 15 A 10:49CLERK OF THE SUPERIOR COURT
OF CALIFORNIA, MARTINEZ, CALIF.
BY [Signature]

Deputy Clerk

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exhibición de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: 725 Court Street
 (El nombre y dirección de la corte es): Martinez, CA 94553

CASE NUMBER:
(Número del Caso):

EN 08-0822

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
 (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kenneth Barker

2349 Royal Oaks Drive

Alamo, CA 94507

D. WAGNER

, Deputy

(Adjunto)

DATE: May 15, 2008
 (Fecha)CLERK OF THE
SUPERIOR COURTClerk, by _____
 (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): Alborg, Veiluva & Epstien

under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)

4. by personal delivery on (date):

Kenneth Barker,
2349 Royal Oaks Drive,
Alamo, CA. 94507.
Phone (925) 820-0198
Fax. (925) 820-0198

Plaintiff In Pro Per.

FILED

JULY 15 A 10:49

KENNETH BARKER vs. FIDELITY NATIONAL TITLE
ET AL., et al., in CONTRA COSTA, CALIF.
S. J. Williams, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA.

KENNETH BARKER,

) CASE NO. **N 08 - 0822**

and

)

LOIS ANNE BARKER,

) PETITION FOR INJUNCTIVE
RELIEF (CPP525) OR PETITION
FOR WRIT OF MANDATE (CPP1085),
DAMAGES FOR FRAUD, CONSPIRACY,
MALICIOUS INFILCTION OF
EMOTIONAL DISTRESS, PUNITIVE
DAMAGES AND/OR SANCTIONS.

Plaintiff's

)

V.

)

DEFAULT RESOLUTION NETWORK;

)

FIDELITY NATIONAL TITLE;

)

MORTGAGE ELECTRONIC REGISTRATION

)

SYSTEMS, INC; ALBORG, VEILUVA & EPSTIEN;

) PLAINTIFF DEMANDS TRIAL BY

TITLE COURT SERVICES, INC.; GENPACT

) JURY.

MORTGAGE SERVICES; DOES 1 through 50,

)

inclusive.

)

Defendants.

)

)

)

1.

COMPLAINT

1) Petitioners/Plaintiffs, Kenneth Barker and Lois Anne Barker, allege:

Petitioners/Plaintiffs brings this action against the above named defendants to obtain

Injunctive Relief (CPP 525) and/or a Writ of Mandate (CPP 1085) order by the court to

1.

1 dismiss, and throw out, a nonjudicial " Notice Of Default And Election To Sell Under
2 Deed Of Trust " with Trustee Sale No. 08-00031-1. The Notice of Default was recorded on
3 May 1, 2008 via Instrument Number 20088146777 in the Official Records of Contra Costa
4 County, California (**Exhibit No. 1**). It was served on petitioners/plaintiffs on May 8,
5 2008.

7 2) Petitioner/Plaintiff, Kenneth Barker and Lois Anne Barker (herein after collectively
8 " Plaintiff ") respectfully petitions this court to promptly issue the requested Injunctive
9 Relief under CPP 525 and/or a Writ of Mandate under CPP 1085, because defendant via
10 the above noted " Notice Of Default ", has stated it will set a sale date of the property after
11 3 months of the recordation date which was May 1, 2008. Plaintiff by this complaint,
12 claims damages for conspiracy, fraud, malicious infliction of emotional distress, and
13 punitive damages and/or sanctions.
14

15 3) Plaintiff does not know the true names and capacities of Respondents/Defendants
16 (hereinafter collectively " Defendant ") sued herein as DOES 1 through 50 inclusive, and
17 Plaintiff sues these Defendants by such fictitious names and will amend this
18 Petition/Complaint to allege their true names and capacities when the same have been
19 ascertained.
20

21 11.

22 **DEFENDANT LACKS LEGAL STANDING TO FILE A NOTICE OF DEFAULT
23 AND SELL UNDER DEED OF TRUST.**

24 **ARGUMENT AND LAW.**

25 4) Plaintiff alleges defendants are engaged in a predatory " Foreclosure-Mill. "
26 conspiracy by filing an illegal nonjudicial Foreclosure Notice on plaintiff's property
27

1 located at 2349, Royal Oaks Drive, Alamo, CA. 94507. Critically, before filing a
2 nonjudicial Foreclosure Notice, defendant must show that it owns a Note; Deed of Trust;
3 or Mortgage on plaintiff's property, which defendant has not done. Unquestionably, filing a
4 nonjudicial Foreclosure Notice without the legal right to do so, constitutes fraud,
5 conspiracy to defraud, and predatory use of the California Foreclosure Laws to
6 fraudulently seize plaintiff's property which has caused plaintiff severe emotional distress.
7
8 5) Long established, and repeatedly upheld law, holds that any company, or person, who
9 files a Foreclosure Notice, must follow the " Real Party In Interest Rule ". It requires that a
10 party must prove he is the REAL PARTY IN INTEREST, in order to legally file a
11 Foreclose Notice, and foreclose on the property, which defendant has not done. Critically,
12 neither defendant's gobbledegook/gibberish electronic filings, nor any other of defendants'
13 filings, or papers, prove that defendant actually owns the applicable Note, Deed of Trust,
14 or Mortgage. As a matter of law, without such proof, defendant's Foreclosure Notice is
15 invalid. Therefore, it must be dismissed by the court.
16
17 6) Defendant had the choice of exercising the remedies of nonjudicial and judicial
18 foreclosure concurrently as well as alternatively. Defendant chose nonjudicial foreclosure.
19 The beneficiary of a trust deed can pursue both remedies at once, and then elect to
20 complete but one. (*Vlahovich v Cruz* (1989 213 Cal. App. 3d 317,322 261 Cal. Rptr.565;
21 *McDonald v. Smoke Creek Live Stock Co* (1930) 209 Cal.231,237,286P 693) However,
22 that choice does not give defendant a license to defraud plaintiff via an unlawful
23 nonjudicial Foreclosure Notice.
24
25 7) Very recent rulings on this precise point have been issued by Federal Courts throughout
26 the United States. They provided the following:

1 8) U.S. District Judge Christopher A. Boyko of the Northern District of Ohio on October
2 31, 2007, in a six (6) page opinion dismissed 14 Deutsche Bank- filed foreclosures in a
3 ruling based on lack of standing for not owning/holding the mortgage loan at the time the
4 foreclosures were filed. *Foreclosure Cases Nos. 1: 07CV 2282 et al.*

5 6) Using exceptionally strong language, and 3 foot notes, Judge Boyko lambasted
6 7 Deutsche Bank and it's lawyers and agents, for attempting to improperly make the
7 8 Federal Court system a compliant ally to illegally deprive home owners of their homes.
8

9 10) **Most significantly, defendant is attempting the same illegality using the California
10 11 nonjudicial foreclosure process.**

12 13) Shortly after Judge Boyko's decision, Federal Judge Kathleen M. O' Malley, in
13 14 Cleveland, Ohio, dismissed 32 foreclosure actions because these, too, were filed without
14 15 proof that plaintiff owned the mortgages.

16 17) In November 2007, Federal Judge Thomas A. Rose in Dayton, Ohio, also ruled that 26
17 18 of 27 foreclosure cases in front of him had no proof that the plaintiff's owned the
18 19 mortgages. Therefore, he dismissed them.

19 111

20 **CONSPIRACY TO COMMIT FRAUD**

22 **ARGUMENT AND LAW**

23 12) Defendant, and it's agents and attorney's knew, or should have known, that there was
24 25 no proof of mortgage ownership provided in the nonjudicial Foreclosure Notice, or other
25 26 papers. Unquestionably, defendant had an iron clad duty to check to ensure that it had the
26 27 legal right to file it's nonjudicial Foreclosure Notice, which it did not do. Defendants, for
27 28 their own wrongful gain and profit willfully cut corners, and illegally conspired to violate

1 plaintiff's basic right to equal protection of the laws, as well as collectively conspiring to
2 illegally seize plaintiff's property.

3) Law defines "**Conspiracy**" as : "*An agreement by two or more persons to commit a*
4 *crime, fraud, or other wrongful act*" (Random House Dictionary of the English
5 Language,P.313) (**Exhibit No. 2**)

6) For their own illegal gain and profit, defendants', using the law firm of Alborg,
7 Veiluva, & Epstein have willfully act in total disregarded for plaintiff's legal rights. They
8 have conspired to file an illegal nonjudicial Foreclosure Notice and thereby fraudulently
9 seize plaintiff's property.

10 IV.

11 FRAUD

12 ARGUMENT AND LAW

13) Law defines "**Fraud**" as : *Deceit, trickery, sharp practice, or breach of confidence,*
14 *used to gain some unfair or dishonest advantage.*" (Random House Dictionary of the
15 English Language. P.564) (**Exhibit No. 3**)

16) The State of California has many laws dealing with fraud. Penalties range from stiff
17 fines to lengthy prison sentences.

18) Defendant and it's attorney, are all large experienced firms. They fully know and
19 understand foreclosure law. In fact, defendant and it's attorney, specialize in property
20 foreclosures. Therefore, it is inexcusable that they cut corners at plaintiff's expense, and
21 commit fraud by knowingly filing a Foreclosure Notice that does not comply with
22 nonjudical Foreclosure law. Their illegal acts were not mistakes or careless oversights.
23 Rather, they were premeditated, illegal, evil acts, designed to unlawfully seize plaintiff's
24 property by sharp practice and fraud.

1 18) Unquestionably, when a lawyer knows, or should have known, that the claimed
2 beneficiary is not the owner, holder, or party of beneficial interest of the note or mortgage,
3 yet nevertheless, willfully files a false nonjudicial Foreclosure Notice, that constitutes
4 prima facie fraud.

5 19) Defendant, without any support whatsoever, also falsely claims plaintiff owes
6 defendant the sum of \$ 137,818.75 as of April 20, 2008. Defendant further falsely claims
7 without any support, that plaintiff is responsible for defendant's attorneys fees and
8 expenses, and for multiple other trumped false charges. Again, when a lawyer knows, or
9 should have known, that the claimed beneficiary is not owed these trumped up amounts,
10 yet nevertheless, willfully files a false nonjudicial Foreclosure Notice for the same, that also
11 constitutes prima facie fraud.
12
13

14 20) Under Federal Law, filing of any False Claim under Title 18 is Fraud, punishable by up
15 to 5 years of prison, and up to a \$500,000.00 fine, as well as being liable for severe civil
16 penalties.
17

V.

MALACIOUS INFILCTION OF EMOTIONAL DISTRESS

ARGUMENT AND LAW

21 21) Defendant conducts it's general business as a " Foreclosure Mill ". It turns the
22 foreclosure work over to so called "Foreclosure- Mill" law firms, who in turn, collectively
23 file thousands of fraudulent computer generated Foreclose Notices via defective rough
24 shod filing practices which trample a borrowers' rights.
25
26

27 22) Defendant knew, or should have known, that it's callous fraudulent practice of filing a
false Foreclosure Notice to illegally seize plaintiff's property, would cause plaintiff intense

1 mental pain, anguish, suffering, worry, heart break, and severe emotional distress.
2 Defendant's conduct is repugnant, unquestionably malicious, and evil. Defendant's, in their
3 collective greed to defraud plaintiff, didn't give a tinkers damm that their illegal conduct
4 would severely hurt plaintiff and cause severe emotional distress.
5

6 23) California law allows plaintiff to collect damages for emotional distress that was
7 intentionally, and maliciously inflicted on plaintiff, by defendant.

8 VI.
9

10 **REQUEST FOR PUNITIVE DAMAGES AND/OR SANCTIONS**

11 **ARGUMENT AND LAW**

12 24) California law gives the court the legal authority to impose punitive damages and/or
13 sanctions on any party for outrageous conduct, and on any party who abuses the legal
14 system, misleads the court, and/or ignores court orders.
15

16 25) Unquestionably, defendant, utilizing their attorneys, have engaged in trickery and
17 deceit by filing a nonjudicial Notice of Default, without proving, or providing evidence,
18 that they owned/held the mortgage loan at the time the Foreclosure Notice was filed.
19

20 26) In essence, defendant has willfully mislead the court by filing an illegal Foreclosure
21 Notice, masking the same, by using the nonjudicial method of foreclosure. That is
22 deceitful, sharp practice, and outrageous predatory conduct.
23

24 27) Punitive damages/sanctions are appropriate, and fitting, for defendant's deceitful
25 conduct. A recent similar case for deceit and foreclosure misrepresentation involved Wells
26 Fargo Bank, it's agents, and attorneys. (*Jacalyn S. Nosek v. Ameriquest Mortgage
Company, et.al Chapter 13- Case No. 02- 46025-JBR*). On April 25, 2008, the Honorable
27 Judge Joel Rosenthal of the United States Bankruptcy Court, District of Massachusetts,

1 **(Exhibit No. 4) imposed the following sanctions:**

- 2 i) Ameriquest Mortgage Company in the amount of \$250,000.00.
- 3 ii) Abitt & Charlton (a law firm) in the amount of \$25,000.00.
- 4 iii) Attorney Robert Charlton in the amount of \$25,000.00.
- 5 iv) Buchalter Nemer Fields and Younger (a law firm) in the amount of \$100,000.00.
- 6 v) Wells Fargo Bank in the amount of \$250,000.00.

7

8 **VII.**

9

10 **SUMMARY OF ARGUMENT**

11 27) Defendant seeks to enlist the California judicial system as an ally for approving, and
12 condoning, shoddy defective foreclosure filings and sharp practice to illegally seize
13 plaintiff's property.

14 28) The Honorable Federal Judge Christopher A. Boyko in his ruling stated that the
15 integrity of Federal justice system is " priceless ", and not for sale. This court should also
16 make it clear to defendant, it's agents, and attorneys, that the integrity of the California
17 justice system is also " priceless ", and not for sale.

18 WHEREFORE, plaintiff prays for:

19 1. Judgment against defendant.

20 2. Preemptory Injunctive Relief (CPP525) and/or a Writ of Mandate (CPP 1085) be issued
21 to dismiss defendant's Notice of Default.

22 3. Cost of suit and attorneys fees incurred in this action.

23 4. Damages in an amount not yet ascertained with interest on that amount at the legal
24 rate based upon the imposition as set forth above pursuant to the laws for foreclosure.

- 1
2 5. Damages for malicious infliction of emotional distress in the amount of \$2,5000.000.00.
3
4 6. Punitive damages/sanctions for defendants fraud and conspiracy in the amount of
5 \$2,5000,000.00.
6
7 7. For such other and further relief as the court deems proper.

8 Dated: 05/15/08



9 Kenneth Barker, Plaintiff In Pro Per.

10 Plaintiff Demands A Trial By Jury.

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3 **LIST OF EXHIBITS**
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Exhibit No. 1 Notice Of Default And Election To Sell Under Deed Of Trust

Exhibit No. 2 Definition of " Conspiracy " P.313 Random House Dictionary of the English Language.

Exhibit No 3 Definition of " Fraud " P.564 Random house Dictionary of the English Language.

Exhibit No. 4 United States Bankruptcy Court District of Massachusetts, List of Sanctions Impose by the Honorable Judge Joel B. Rosenthal, United States Bankruptcy Judge.

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EXHIBIT

Recording Requested By
and When Recorded Mail to:

Default Resolution Network
50 California Street
Suite 3550
San Francisco, CA 94111

CERTIFIED COPY

Recorded May 1, 2008
Instrument Number 2008146777
Official Records
Contra Costa County, California

Fidelity National Title

Trustee Sale No: 08-00031-1
Loan No: 6CB050331004

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

IMPORTANT NOTICE

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is \$137,818.75 as of April 20, 2008, and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact :

Alborg, Veiluva & Epstein
c/o Default Resolution Network
50 California Street
Suite 3550
San Francisco, CA 94111
Phone: 415-981-5720 TS# 08-00031-1

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

REMEMBER, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.

NOTICE IS HEREBY GIVEN: That default has been declared by the current beneficiary (the "Beneficiary") under that certain Deed of Trust dated as of March 23, 2005, executed by Kenneth Barker and Lois Anne Barker, his wife, as joint tenants, as trustor (the "Original Trustor"), to secure obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC, as beneficiary, recorded March 30, 2005 as Instrument Number 2005-0108000-00 in Book n/a at Page n/a of official records in the Office of the Recorder of Contra Costa County, California (the "Original Deed of Trust"), and that

The Original Deed of Trust and any modifications thereto are collectively referred to herein from time to time as the "Deed of Trust", and that

The Deed of Trust encumbers certain property more particularly described therein (less any reconveyances therefrom, and with any additions thereto, the "Trust Property"), and that

The Deed of Trust secures the payment of and the performance of certain obligations, including but not limited to, the obligations set forth in that certain Promissory Note with a face amount of \$750,000.00 (the "Original Note"), and that

The Original Note and any modifications thereto are collectively referred to herein from time to time as the "Note", and that

The Note and any other documents evidencing the obligations secured by the Deed of Trust, together with any modifications thereto, are collectively referred to herein from time to time as the "Secured Obligations", and that

The term "Trustor" as used herein shall mean either the Original Trustor or, if applicable, its successor in interest with respect to the Trust Property, and that

The term "Trustee" as used herein shall mean the original trustee under the Deed of Trust or, if applicable, its successors in interest, and that

A breach of, and default in, the obligations for which said Deed of Trust is security has occurred in that the Trustor has failed to perform obligations pursuant to or under the Secured Obligations and/or the Deed of Trust, specifically: failed to pay payments which became due; together with late charges due; failed to pay advances made by the Beneficiary; failed to pay attorneys' fees and expenses; failed to reimburse Beneficiary for payback of gain on loan sale; and that

The Trustor has failed, or shall hereafter fail, to pay all other and subsequent interest and/or principal together with late charges and/or default interest and/or any and all other obligations and indebtedness as may become due under the terms of or under the Secured Obligations and/or Deed of Trust and not performed and/or paid including, without limitation, reimbursement to the Beneficiary and/or the Trustee of any of the following fees, costs and expenses heretofore or hereafter incurred, suffered or paid by the Beneficiary and/or the Trustee in connection with the Secured Obligations and/or Deed of Trust, the Trustor or the Trust Property:

1. attorneys' fees and costs including, without limitation, those incurred in connection with foreclosure of the Deed of Trust, appointment of a receiver with respect to the Trust Property, litigation over the amount, validity, enforcement or priority of the Secured Obligations and/or Deed of Trust, or commencement of an action or proceeding for relief from any bankruptcy court or other judicial or administrative stay, order or injunction, and all other such matters;
2. real and/or personal property taxes, or payments under or with respect to prior or junior liens or encumbrances, insurance premiums and all other such matters;
3. protection, preservation, repairs, restoration or completion of the Trust Property, and all other such matters;
4. compliance with any applicable laws, regulations or orders, and all other such matters;
5. Trustee's fees, trustee's sale guarantee premiums, and other foreclosure costs, and all other such matters; and that

It is the intention of the Beneficiary to include herein all delinquent sums or obligations now or hereafter secured by and under the Deed of Trust, whether presently known or unknown, and whether or not specifically set forth herein, and that

By reason thereof, the present beneficiary under such Deed of Trust, has delivered to said Trustee a Declaration and Demand for Sale, and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing the obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the Trust Property to be sold to satisfy the obligations secured thereby.

Date: April 30, 2008

Default Resolution Network
Agent for the Beneficiary
By: Title Court Services, Inc. its Agent

/S/

EXHIBIT

2

THE
RANDOM
HOUSE
DICTIONARY
of the
ENGLISH
LANGUAGE

The
Unabridged
Edition



con sis tant, *adj.* 1. agreeing or accord-
ing to the same principles, course,
consistent opponent of political change
together; cohering. 4. *Archaic*. fixed.
L *consistens* (s. of *consistere*, pp. of
consistere, *ENT*) —*con-sist-en-tly*, ad-
verb, consonant, harmonious, conform-
ing, *con-sist-ent*, *n.* *pl.* -ries. 1. any of
tribunals or tribunals. 2. the place
where trials meet. 3. the meeting
y. 4. *Rom. Cath. Ch.* a solemn assembly
of cardinals, summoned and presided
over by the pope. 5. *Ch. of Eng.* a diocesan court for
ecclesiastical and spiritual questions, held
in the church and presided over by the bishop,
archbishop, or the commissary. 6. (in
the church) the governing board of a
congregation. 7. any assembly or coun-
council chamber. [ME *consistorie* < LL
See *CONSIST*, *-ARY*] —*con-sis-to-ri-al*,
-sor'-i-, *con-sis-to-ri-an*, *adj.*

adj. n. *ken sōshēt*, *v.* *ken sōshēt*,
-ated, -ating, associate. [*< L*
consociare, equiv. to *con-CON-* +
partner + *-itus* *-ATR*'] —*con-so-ci-a-*
tion, *n.* *ken solv*, *n.* Usually, *consols*, the
securities of Great Britain that
a consolidation in 1751 of various public
in the form of annuities, into a single
ut maturity. Also called *bank annuities*,
dated annuities.

(ken' sō shēn), *n.* 1. the act of con-
sole. 2. the state of being consoled.
something that consoles: *His devoted
consolation during his troubles. Her devoted
consolation to her.* 4. *Sports*. a game
or entrants in a tournament eliminated
round, as a basketball game between the
lists. [ME *consolacion* < L *consolatiōn*,
equiv. to *consolat(us)*, ptp. of *consolari*
iū, s. of *solari* to comfort, + *-tus* ptp.
ION]

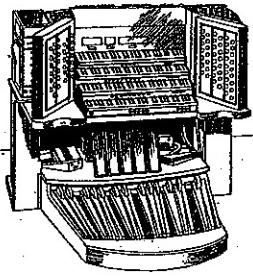
of *Philosophy*, *The*, a philosoph-
523?] by Boethius. Latin, *De Consola-
tiae*.

prize, a prize, usually of minor value,
or runner-up in a contest, competition,

el Ma-re (*kōn sō lä/tō del mā/ne*),
ime law compiled in the Middle Ages:
cient law and has influenced modern

ort (*kōn solv/tōr/ē, -tōr/ē*), *adj.* giving
soling. [late ME < L *con-*

co-
-oxr']
i-ly, *adv.*
iness, *n.*
sōl, *v.t.*
to al-
the grief,
pointment,
comfort,
is children
when his
L conso-
con-
perh.
—con-
—con-
—sol/ing-
fort.



Console² (def. 1)

sōl, *n.* 1. a desklike structure contain-
ing, pedals, etc., by means of which an

2. a ra-
1. or tele-
iat stands.
See com-
a small
g on the
ng doors,
namental
ket, esp.
to its
the mon-
units of
containing
switches,
sed by an
rol a com-
the con-
itchboard
al or elec-
a console
theater's
[< F < ?]
le (*kōn-*
ible sup-
soles or
to a wall.
ten with

d. *to fit against a wall.*
tot (*kōn*'), *n.* a small console radio,
tele on set. [CONSOLE² + -ETTE]

(*ken solv/dit/*), *v.*, -dated, -dat-ing,
bring together (separate parts) into a
nite; combine: *They consolidated their*

2. *Mil.* to strengthen by rearranging
ground combat troops after a successful
battle solid or firm; solidify; strengthen:

ties. Cf. *consol-*
consolidated school, a public school formed
from the pupils and teachers of a number of discontinued
smaller schools, esp. in a rural district. Also called
centralized school.

con-sol-i-da-tion (*ken sol/i dā/shan*), *n.* 1. an act or
instance of consolidating; the state of being consolidated.
unification; *consolidation of companies*. 2. solidification;
strengthening; *consolidation of principles and beliefs*.
3. something that is or has been consolidated; a consolidated
whole. 4. *Law*. a. a statutory combination of two
or more corporations. b. the union of two or more claims
or actions at law for trial or appeal. 5. (cap.) a steam
locomotive having a two-wheeled front truck, eight
driving wheels, and no rear truck. [*< LL* *consolidatiōn(s) of consolidat(i)us*, equiv. to *L* *consolidat(i)us* (see *CONSOLIDATE*) + *-tōn-ION*] —*con-sol-i-da-tive*, *adj.*

con-sol-ute (*ken/sə lōōt/*), *adj.* *Chem.* 1. (of two
liquids) mutually soluble in all proportions. 2. soluble
in each of two or more conjugate liquids. 3. or per-
taining to two partially miscible liquids capable of
becoming totally miscible under certain conditions. [*< LL* *consolut(i)us* dissolved together, equiv. to *L* *con-CON-*
+ solūtus, ptp. of *solvere* to solvē (sōlū, ptp. s. + *-tus*
pp. suffix)]

con-som-mé (*ken/sə mā/*; Fr. *kon sō mā/*), *n.* a strong
clear soup made by boiling meat and bones long and
slowly to extract their nutritive properties. [*< F*, n. use
of *consommē* (pp. of *consommer* to finish) < L *consummātus* (us) *CONSUMMATE*]

—Syn. broth.

con-so-nance (*kon/sə nāns*), *n.* 1. accord or agree-
ment. 2. correspondence of sounds; harmony of sounds.
3. *Music*. a simultaneous combination of tones conven-
tional accepted as being in a state of repose. Cf. *dis-
sonance* (def. 2). 4. *Pros.* a. the correspondence of
consonants, esp. those at the end of a word, in a passage
of prose or verse. Cf. *alliteration* (def. 1). b. the use
of the repetition of consonants or consonant patterns as
a rhyming device. 5. *Physics*. the property of two
sounds the frequencies of which have a ratio equal to a
small whole number. Also, *con-so-na-nce*. [late ME
< L *consonantia* concord. See *CONSONANT*, *-ANCE*]

—Syn. 1. concord, harmony, correspondence. —Ant.
1. dissonance.

con-so-nant (*kon/sə nānt*), *n.* 1. *Phonet.* a. (in English
articulation) a speech sound produced by occluding with or
without releasing (p, b; t, d; k, g), diverting (m, n,
ng), or obstructing (f, v; s, z, etc.) the flow of air from the
lungs (opposed to *vowel*). b. (in a syllable) any
sound other than the sound of greatest sonority in the
syllable, as b, r, and g in brig (opposed to *sonant*). Cf.
vowel (def. 1b). c. (in linguistic function) a concept
empirically determined as a phonological element in
structural contrast with vowel, as the b of be; the w of we,
the y, s, and t of yeast, etc. 2. a letter which usually
represents a consonant sound. —adj. 3. in agreement;
agreeable; in accord; consistent (usually fol. by *by* or *with*);
behavior consonant with his character. 4. corre-
sponding in sound, as words. 5. harmonious, as sounds.
6. *Music*. constituting a consonance. 7. *Physics*. noting
or pertaining to sounds exhibiting consonance. 8. con-
sonantal. [late ME *consonant(u)m* < L *consonant-* (s. of
consonans, pp. of *consonare* to sound with or together).
See CONSONANT] —*con-so-na-nant-ly*, *adv.*

—Syn. 3. concordant, congruous, conformant. —Ant.
6. dissonant.

con-so-na-nal (*kon/sə nan/əl*), *adj.* 1. of, or of the
nature of, a consonant. 2. marked by consonant sounds.
Also, *con-so-na-nic*. [CONSONANT + *-AL*] —*con-
so-na-nal-ly*, *adv.*

consonant/tal allitera/tion. See under *allitera-
tion* (def. 1).

con-so-na-nal-ize (*kon/sə nan/təlīz/*), *v.t.*, *v.i.* -ized,
-iz-ing. *Phonet.* to change into or become changed into
a consonant (contrasted with *vocalize*). [CONSONANT
+ *-IZE*]

con-so-na-nise (*kon/sə nan/tiz/*), *v.t.*, *v.i.* -tized,
-tis-ing. *Chiefly Brit.* consonantize.

con-so-na-nism (*kon/sə nan/tiz/əm*), *n.* the body of
facts concerning the distribution or phonology of the
consonants of a word, group of words, or language.
[CONSONANT + *-ISM*]

con-so-na-nize (*kon/sə nan/tiz/*), *v.t.*, *v.i.* -tized,
-tiz-ing. consonantize.

con/sonant sys/tem, *Ling.* the consonant pho-
nemes of a language, esp. when considered as forming an
interrelated and interacting group. Cf. *vowel sys-
tem*.

con sor-di-no (*kon sōr dē/nō*, *kōn*; It. *kon sōr dē/nō*),
with the mute (used as a direction in music to a
string player). [*< I*: lit. with mute]

con-sor-t (*n.*, *kon sōrt*, *v.*, *kon sōrt'*), *n.* 1. a husband
or wife; spouse. 2. the spouse of a royal person. Cf.
prince consort, queen consort. 3. one vessel or ship
accompanying another. 4. *Music*. a. a group of instru-
mentalists and singers who perform music, esp. old
music. b. a group of instruments of the same family, as
viols, played in concert. 5. *Obs.* a. a companion or
partner. b. company or association. c. accord or
agreement. d. harmony of sounds. —*v.i.* 6. to associate;
keep company: *to consort with known criminals*.
7. to agree or harmonize. —*v.i.* 8. to associate, join,
or unite. 9. *Obs.* a. to accompany; espouse. b. to sound
in harmony. [late ME < MF < L *consort* (s. of *consors*)
share, orig. sharing (adj.). See CON-, *PORT*] —*con-
sort-a-ble*, *adj.* —*con-sor/t'er*, *n.* —*con-sor/tion*, *n.*

con-sor-ti-um (*kon sōr/sbē/əm*), *n.* *pl.* -ti. (-shē/ə)
1. a combination of financial institutions, capitalists,
etc., for carrying into effect some financial operation
requiring large resources of capital. 2. any association,
partnership, or union. [*< L*: partnership, equiv. to
consort- *consort* + *-tum* n. suffix] —*con-sor-ti-al*, *adj.*

con-spe-cif/ic (*kon spi/sif/ik*), *adj.* Bot., Zool. belonging
to the same species. [CONSPECIES + *-IC*]

con-spec-tus (*kon spek/tas*), *n.* *pl.* -tu-ses. 1. a general
or comprehensive view; survey. 2. a digest; sum-
mary; résumé. [*< L*: survey n. use of *speculator* (pp.
pp. suffix)]

con-stant (*kōn stāns*), *n.* 1. Paul Hen-ri Ben-ja-min
Bal-luat (*pōl ān bāl*), *ban zhā man'* *bālwa*. See
Estournelles de Constant, Paul. 2. Jean Jo-seph Ben-
ja-min (*zhān zhō zef'* *ban zhā man'*), 1845-1902,
French painter. 3. a girl's given name.

Con-stant-a (*kōn stāns/tə*), *n.* a seaport in SE Ru-
mania, on the Black Sea. 110,485 (est. 1959).

con-stant-an (*kōn/stān tan/*), *n.* an alloy containing
60 percent copper and 40 percent nickel, used for elec-
trical resistance heating and thermocouples. [CON-
STANT + *-AN*]

conspic-u-ous (*kōn spik/yū ūs*), *adj.* *accen-tu-ate*, *con-*
spicuous by his boisterous laughter. [*< L* *conspicuus*
vis, conspicuus, equiv. to *con-* + *spicu-* (var.
s. of *spicere*, *see CONSPICUOUS*) + *-ous*] —*con-
spic'u-ous-ly*, *adv.* —*con-spic'u-ous-ness*, *con-
spicuity* (*kōn spik/yū ūs/n̄s*), *n.*

—Syn. 1. visible, manifest, noticeable, clear, marked,
salient. 2. prominent, striking, noteworthy.
conspic-u-ous con-sump-tion, public enjoyment of
possessions that are known to be costly so that one's
ability to pay for such things is emphasized.

con-spir-a-cy (*kōn spir/ə sē*), *n.*, *pl.* -cies. 1. the act
of conspiring. 2. an evil, unlawful, treacherous, or sur-
reptitious plan formulated in secret by two or more
persons; plot. 3. a combination of persons for a secret,
unlawful, or evil purpose: *He joined the conspiracy to
overthrow the government*. 4. *Law*, an agreement by two
or more persons to commit a crime, fraud, or other
wrongful act. 5. any concurrence in action; combination
in bringing about a given result. [ME *conspiracie*
(see CONSPIRE, *-ACY*); r. ME *conspiracion* < AF:
MF *conspiration* < L] —*con-spir/a-tive*, *adj.* —*con-
spir-a-to-rial* (*kōn spir/a-tōr/ēl*, *-tōr/-i*), *con-spir-a-
to-ry* (*kōn spir/a-tōr/ē*, *-tōr/ē*), *adj.* —*con-spir/a-
to-ri-al-ly*, *adv.*

—Syn. 1. complot, intrigue. See plot¹. 2. combine,
concur, cooperate.

con spir-i-to (*kōn spir/i tō/*, *kōn*; It. *kōn spī/rātō*),
with lively spirit; vigorously (used as a direction in
music). [*< I*: lit. with spirit]

Con-stant, 1. constable. 2. constant. 3. constitution.

con-sta-ble (*kōn/sta bal* or, esp. Brit., *kun'*), *n.* 1. any
of various officers of the peace, as one who executes the
processes of a justice of the peace. 2. Chiefly Brit. a
policeman. 3. an officer of high rank in medieval mon-
archies, usually the commander of all armed forces esp.
in the absence of the ruler. 4. the keeper or governor
of a royal fortress or castle. [ME *constable* < OF *< LL*
comes stabuli COUNT² of the STABLE¹] —*con/sta-ble-
ship*, *n.*

Con-sta-ble (*kun/sta bel*, *kun'*), *n.* John, 1776-1837,
English painter.

con/sta-ble glass/, a drinking glass of the 18th
century, having a heavy foot, a tall body, and a quart
capacity.

con-stab-u-lar-y¹ (*kōn stab/yē ler/ē*), *n.*, *pl.* -lar-ies.
1. the body of constables of a district or locality. 2. a
body of officers of the peace organized on a military
basis. [*< ML* *constabulari(a)*, fem. of *constabularius*
CONSTABULARY²]

—Syn. 1. constable or their duties. Also, *con-stab-u-lar* (*kōn-
stab/yē ler*). [*< ML* *constabulari(a)*, equiv. to *comes*
stabuli CONSTABLE + *-ARIUS*]

Con-stance (*kōn/stans*), *n.* 1. Lake, German, Boden
See. a lake in W Europe, bounded by Germany, Austria,
and Switzerland. 46 mi. long; 207 sq. mi. 2. German,
Konstanz, a city in S West Germany, on this lake:
important church council 1414-18. 55,100 (1963).
3. a girl's given name.

con-stan-cy (*kōn/stan sē*), *n.* 1. the quality of being
unchanging or unwavering, as in purpose, love, loyalty,
etc.; firmness of mind; faithfulness. 2. uniformity or
regularity, as in qualities, conditions, etc.; stability;
invariableness. [*< L* *constantia*. See CONSTANT, *-ANCY*]

—Syn. 1. resolution; steadfastness, fidelity, fealty,
loyalty, devotion. 2. permanence, regularity, dependability.
—Ant. 1. irresolution; infidelity. 2. fickleness.

Con-stant I (*kōn/stanz*), *A.D.* c323-350, emperor of Rome 337-350 (son of
Constantine I).

con-stant (*kōn/stant*), *adj.* 1. not changing or varying;
uniform; regular; invariable: *All conditions during
the three experiments were constant*. 2. continuing without
pause or letup; unceasing: *constant noise*. 3. regularly
recurrent; continual; persistent: *He found it impossible
to work with constant interruption*. 4. faithful; unwavering
in love, devotion, etc.: *a constant lover*. 5. steadfast;
firm in mind or purpose; resolute. 6. Obs. certain;
confident. —*n.* 7. something that does not or cannot
change or vary. 8. *Phys.* a number expressing a
property, quantity, or relation that remains unchanged
under specified conditions. 9. *Math.* a quantity assumed
to be unchanged throughout a given discussion. [ME
< L *constant-* (s. of *constans*, pp. of *constare* to stand firm),
equiv. to *con-CON-* + *-stā* stand + *-nt* pp. suffix]
—*con-stant-ly*, *adv.*

—Syn. 1. unchanging, immutable, permanent. 2. per-
petual, unremitting, uninterrupted. 3. incessant, cease-
less. See continual. 4. loyal, stanch, true. See faithful.
5. steady, unwavering, unswerving, unshaken. —Ant.
1. changeable. 2. fritful. 3. sporadic. 4. unreliable.
5. wavering.

Con-stant (*kōn stāns*), *n.* 1. Paul Hen-ri Ben-ja-min
Bal-luat (*pōl ān bāl*), *ban zhā man'* *bālwa*. See
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ja-min (*zhān zhō zef'* *ban zhā man'*), 1845-1902,
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Con-stant-a (*kōn stāns/tə*), *n.* a seaport in SE Ru-
mania, on the Black Sea. 110,485 (est. 1959).

con-stant-an (*kōn/stān tan/*), *n.* an alloy containing
60 percent copper and 40 percent nickel, used for elec-
trical resistance heating and thermocouples. [CON-
STANT + *-AN*]

con-stant-i-ty (*kōn stāns/tē*), *n.* *pl.* -ties. *equal*; *If*; *ice*; *hot*, *over*, *order*, *oil*, *bōbō*, *ōzō*, *out*; *up*.

equal; *If*; *ice*; *hot*, *over*, *order*, *oil*, *bōbō*, *ōzō*, *out*; *up*. *Urge*; *chief*; *sing*; *shoe*; *thin*, *that*; *zh* as in measure.
e, *e* as in system, *i* as in easily, *o* as in gallop, *u* as in circus; *ɔ* as in button (but'ən), *fire* (fīr), *cradle* (krād/ə). See the full key inside the front cover.

EXHIBIT 3

THE
RANDOM
HOUSE
DICTIONAR
of th
ENGLISI
Languag

The
Unabridged
Edition



frank

A sizable inheritance will frank you faster than anything else. 12. to secure exemption for. 13. *Carpentry.* to assemble (millwork, as sash bars) with a miter joint through the moldings and a butt joint or mortise-and-tenon joint for the rest. [ME < OF *franc* < LL *francus*] free, orig. **FRANK** —**frank**/able, adj. —**frank**/er, n.

—Syn. 1. unrestrained, free, bold, uninhibited. **FRANK**, **CANDID**, **OPEN**, **OUTSPOKEN** imply a freedom and boldness in speaking. **FRANK** is applied to one unreserved in expressing the truth and to his real opinions and sentiments: *a frank analysis of a personal problem*. **CANDID** suggests that one is sincere and truthful or impartial and fair in judgment, sometimes unpleasantly so: *a candid expression of opinion*. **OPEN** implies a lack of reserve or of concealment: *open antagonism*. **OUTSPOKEN** applies to one who expresses himself freely, even when this is inappropriate: *an outspoken and unnecessary show of disapproval*. —Ant. 1. restrained.

frank² (frangk), n. *Informal.* frankfurter. [by shortening]

Frank (frangk), n. 1. a member of a group of ancient Germanic peoples dwelling in the regions of the Rhine, one division of whom, the Sallans, conquered Gaul about A.D. 500, founded an extensive kingdom, and gave origin to the name *France*. 2. (in the Levant) any native or inhabitant of western Europe. [ME *Franks*, OE *France* (c. OHG *Franks*); usually said to be from the name of the national weapon; cf. OE *franks* spear, javelin]

Frank (frangk, frängk; Russ., Ger. frängk), n. 1. Il'ya M. (d. 1958), born 1908, Russian physicist; Nobel prize 1958. 2. Le-on-hard (lē'ōn hārt), 1882-1961, German novelist. 3. a boy's given name.

Frank., Frankish.

Frank-en-stein (frangk'ən stīn'), n. 1. a person who creates a monster or a destructive agency that he cannot control or that brings about his own ruin. 2. Also called **Frank-enstein mon-stər**. the monster or destructive agency itself. [after the monster created by Baron *Frankenstein*, character in *Frankenstein*, novel (1818) by Mary Shelley]

Frank-fort (frangk'fōrt), n. 1. a city in and the capital of Kentucky, in the N part. 18,365 (1960). 2. a city in central Indiana. 15,302 (1960). 3. a town in central New York. 3872 (1960). 4. See *Frankfort on the Main*.

frank-fort'er (frangk'fōr tər), n. frankfurter. Also, **frank-fort**.

Frank-fort on the Main' (mān), a city in central West Germany, on the Main River. 694,200 (1963). Also called *Frankfort*, German *Frankfurt am Main* (frängk'fōrt əm mān'). *Frank/furt*.

Frank-fort on the O'der (ō'dər), a city in E East Germany, on the Oder River. 57,200 (est. 1959). German, *Frankfurt an der O'der* (frängk'fōrt ən dər ō'dər). *Frank/furt*.

frank-furt'er (frangk'fōr tər), n. a small, cooked and smoked sausage, usually of beef and pork, manufactured with or without casing and often linked. Also, *frankfort*, *frankfurter*, *frank/furt*. [< G: *Frankfort* sausage]

Frank-furt'er (frangk'fōr tər), n. Felix, 1882-1965, U.S. jurist born in Austria; associate justice of the U.S. Supreme Court 1939-62.

Frank-furt horizon'tal (frangk'fōrt' hōr'zən'ləl), 1. *Cranium*, the plane established when right and left poria and left orbitale are in the same horizontal plane. 2. *Cephalom*, the plane established when right and left tragia and left orbitale are in the same horizontal plane. [named after *Frankfort on the Main*]

Frank-ie (frangk'ē), n. 1. a boy's given name, form of Francis or Franklin. 2. a girl's given name, form of Frances. Also, *Franky*.

frank-in-cense (frangk'ēn sens'), n. an aromatic gum resin from various Asian and African trees of the genus *Boswellia*, esp. *B. Carteri*, used chiefly for burning as incense in regular or ceremonial practices, in perfumery, and in pharmaceutical and fumigating preparations. Also called *gum thus*, *obianum*. [ME *frank encense*. See **FRANK**, INCENSE¹]

Frank-ish (frangk'ish), adj. 1. of or pertaining to the Franks. —n. 2. the West Germanic language of the ancient Franks; Old Franconian. Cf. *Frank* (def. 1). [**FRANK** + **ISH**]¹

Frank-lin (frangk'lin), n. *Eng. Hist.* (in the 14th and 15th centuries) a freeholder who was not of noble birth. [ME *frā(u)nkelin* < AF *frāu(n)lein*, equiv. to *frāu* free, **FRANK** + *-lin* -LING; formed on model of OF *chamberlain* CHAMBERLAIN]¹

Frank-lin (frangk'lin), n. 1. Benjamin, 1706-90, American statesman, diplomat, author, scientist, and inventor. 2. Sir John, 1786-1847, English Arctic explorer. 3. a district in extreme N Canada, in the Northwest Territories, including the Boothia and Melville peninsulas, Baffin Island, and other Arctic islands. 549,253 sq. mi. 4. a town in central Pennsylvania. 9586 (1960). 5. a town in central Indiana. 9453 (1960). 6. a town in S Louisiana. 8673 (1960). 7. a town in SW Ohio. 7917 (1960). 8. a town in SE Virginia. 7264 (1960). 9. a town in SE Idaho. 7222 (1960). 10. a town in central Tennessee. 6077 (1960). 11. a town in central New Hampshire. 6742 (1960). 12. a town in S Massachusetts. 6391 (1960). 13. a town in S Kentucky. 5319 (1960). 14. a town in NW New Jersey. 3264 (1960). 15. a crater in the first quadrant of the face of the moon: about 34 miles in diameter. 16. a boy's given name.

Frank-lin-ite (frangk'lin'itē), n. a mineral of the spinel group, an oxide of zinc, manganese, and iron, occurring in black octahedral crystals or in masses: an ore of zinc. [named after *FRANKLIN*, New Jersey where it is found; see **REB**]¹

Frank-lin Lakes', a town in NE New Jersey. 3316 (1960).

Frank-lin Park', a city in NE Illinois, near Chicago. 18,322 (1960).

Frank-lin's gull', a black-headed, North American

ing a cast-iron top, back, and sides, with some provision for circulating air behind them in order to provide heat. [named after Benjamin FRANKLIN who designed it]

Frank-lin-ton (frangk'lin tōn), n. a town in SE Louisiana. 3141 (1960).

frank-ly (frangk'lē), adv. in a frank manner; freely; openly; unreservedly; candidly; plainly: *He presented his arguments frankly and objectively*. [**FRANK** + **-LY**]

frank-ness (frangk'nēs), n. plainness of speech; candor; openness. [**FRANK** + **-NESS**]

Frank-ko (frān'kō), n. I-van (i vān'), 1856-1916, Ukrainian writer.

frank-pledge (frangk'plēj), n. *Old Eng. Law*.

1. a system of dividing a community into tithings or groups of 10 men, each member of which was responsible for the conduct of the other members of his group and for the assurance that a member charged with a breach of the law would be produced at court. 2. a member of a tithing. 3. the tithing itself. [ME *frā(u)nkleige* < AF *frāu(n)leige*. See **FRANK**, PLEDGE]

Frank-y (frangk'ē), n. 1. a boy's given name, form of Francis or Franklin. 2. a girl's given name, form of Frances. Also, *Frankie*.

Fran-nie (frān'ē), n. a girl's given name, form of Frances. Also, *Fran/ny*.

fran-tic (frān'tik), adj. 1. wild with excitement, passion, fear, pain, etc.; frenzied. 2. Archaic, insane; mad. [ME *fran tik*, *frenetik* < OF *frenetique* < L *phreneticus* delirious < Gk *phrenetikos*. See **FRENZY**] —fran-ti-cally, adv. —fran-tic-ness, n.

Franz (frānz; Ger. frānts), n. 1. a walled plain in the first quadrant of the face of the moon: about 16 miles in diameter. 2. a boy's given name, German form of Frank.

Franz Fer-di-nand (franz fēr'dēnānd'; Ger. frānts fēr'dēnānt). See *Francis Ferdinand*.

Franz Jo-sef (frānts yō'saf; Ger. frānts yō'zef). See *Francis Joseph I*.

Franz' Jo-sef Land' (lānd; Ger. lānt), an archipelago in the Arctic Ocean, E of Spitsbergen and N of Novaya Zemlya; belongs to the Soviet Union. Also called *Fridtjof Nansen Land*.

Franz Jo-seph II (yō'zef). born 1908, prince of Liechtenstein since 1938.

trap (trap), v.t., trapped, trapping. *Naut.* to bind or wrap tightly with ropes or chains. [ME *trap(p)e(n)* < OF *trap(r)* (to) strike, beat, prob. < Gmc. Cf. *trapa* to hurl, hurry.]

trap-pe (fra pā'; Fr. fra pā'), n., pl. -pés (-pāz'; Fr. pā'), adj. —n. 1. U.S. a fruit juice mixture frozen to a mush, to be served as an appetizer or relish. 2. an after-dinner drink consisting of a liqueur, as crème de menthe, poured over cracked or shaved ice. 3. Also, *frappe* (trap). (esp. in the northeastern U.S.) See *milk shake*. 4. *Ballet*, a beating of the toe of the working foot against the ankle of the supporting foot. —adj. 5. chilled; iced; frozen. [< F: iced, beaten, ptp. of *trapper* to ice, strike]

fras-cat-i (frā skātē), n. a fruity white wine from Rome. [after *Frascati*, city in Central Italy]

Fra-ser (frāz'ər), n. 1. James Earle, 1876-1953, U.S. sculptor. 2. John Malcolm, born 1930, Australian political leader: prime minister since 1975. 3. Peter, 1884-1950, New Zealand statesman, born in Scotland: prime minister 1940-49. 4. a river in SW Canada, flowing S through British Columbia to the Pacific. 695 mi. long. 5. a town in SE Michigan. 7027 (1960). 6. Also, *Frazer*, a boy's given name.

frat (frāt), n. *Slang.* fraternity (def. 1). [by shortening]

fratch (frāch), Brit. Dial. —v.t. 1. to disagree; quarrel. —n. 2. a quarrel; argument; dispute. [**ME frache(n)** (to) break < ?] —fratch'er, n.

fratch-ing (frāch'ing), n. Brit. Dial. a quarrel; disagreement; argument. [**FRATCH** + **-ING**]

fra-ter' (frā'tər), n. a brother, as in a religious or fraternal order; comrade. [**< L: BROTHER**]

fra-ter² (frā'tər), n. *Ecc. Hist. Obs.* the refectory of a religious house. Also, *fraternity*. [ME *frater*, *freitor* < OF *fratir*, short for *refetor* < ML *refectorium* REFECTORY]

fra-ter-nal (frā tōr'nl), adj. 1. of or befitting a brother or brothers; brotherly. 2. of or being a society of men associated in brotherly union, as for mutual aid or benefit: *fraternal order*; *fraternal association*. [**< L: frāternus** (see **FRATER**) + **-AL**]¹ —fra-ter'nal-ism, n. —fra-ter'nal-ly, adv.

frat'er/nal insur/ance, insurance underwritten by a fraternal society, under either a legal reserve plan or an assessment plan.

frat'er/nal soci/ety, a club or other association, usually of men, having a limited membership and devoted to professional, religious, charitable, or social activities.

frat'er/nal twin', one of a pair of twins of the same or different sexes, not necessarily resembling one another, that develop from two fertilized ova. Cf. *identical twin*.

frat'er-nise (frāt'r nīz'), v.t., v.i. -nised, -nis-ing. Chiefly Brit. *fraternize*. —frat'er-ni-sa'tion, n. —frat'er-ni-si'ex, n.

frat'er-ni-ty (frāt'r nītē), n., pl. -ties. 1. U.S. a

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or charitable purposes. 5. the quality of being brotherly; brotherhood: *liberty, equality, and fratre* the relation of a brother or between brothers. *fraternalis* < L *frāternitas*. See **FRATERNAL**, **-ITY** **frat'er-nity house**', a house occupied by university fraternity.

frat'er-nize (frāt'r nīz'), v., -nized, -niz-i-

1. to associate in a fraternal or friendly way; associate cordially or intimately with enemies of a conquered country, etc. —v.t. 3

bring into fraternal order or sympathy. *Brit. fraternalism*. [**< F *fraternis(er)*** < ML *frātēr*. See **FRATERNAL**, **-ITY**]¹ —frat'er-ni-za-

—frat'er-niz'er, n.

Fra-tres Ar-val'es (*Lat. frāt'res ar'vālēz*). See Arval Brothers.

frat-ri-clide (frāt'rē klīd'), n. 1. a p-

kills his own brother. 2. act of killing one's own brother. [**< L *frātricid(a)*, -um, equiv. to *frāter*** brother + **-cida**, -um -CIDE]¹ —frat'rē clide

—frat'rē clide

fra-tray (frā trē), n., pl. -tries. *frater*².

Fra-u (frau; Eng. *frou*), n., pl. **Fra-u-en** (fraūs). German. a married woman; lady (often used as a term of address).

fraud (frōd), n. 1. deceit, trickery, sharp practice.

breach of confidence, used to gain some unfair advantage. 2. a particular instance of deceit or trickery: *mail fraud*; *election fraud* deception, trickery, or humbug: *That book and a waste of time*. 4. a person who makes pretenses; impostor. [ME *fraude* < OF *(s. of *frāus*)* deceit, injury]¹ —fraud'ful, adj.

—Syn. 1. See *deceit*. 3. wile, hoax.

fraud-u-lent (frōf'ul'ēnt), adj. 1. given to fraud, as a person; cheating; dishonest. 2. ch-

by, involving, or proceeding from fraud; enterprise, methods, gains, etc.: *a fraudulent evade taxes*. [ME < L *fraudulentus*]. S -ULNT] —fraud'u-lent-ly, adv. —fraud'u-lent-ness, n.

Frau-en-feld (Ger. frōu'en fēld), n. a to

the capital of Thurgau, in N Switzerland. 14,

Frau-en-lie-be und Le-ben (Ger. frōu'en la'bēn), a song cycle (1840) by Robert Schumann consisting of eight songs set to poems by Ad

Chamiso.

fraught (frōt), adj. 1. involving; full of; as by (visually fol. by with): *an undertaking* of danger. 2. Archaic, filled or laden (with): *six with precious wares*. —n. 3. Scot. a load; cargo (of a ship); cf. *freight*; *frātēn* earnings, OE *frēt*

Fri-dū-lein (frōl'in), Eng. frōl'in or, often, fr n., pl. **Fri-Hu-lein**, Eng. **Frau-leins**. German married woman; a young lady (often used as address).

Frau-ho-fer (frōn'hō'fer, frōu'en hō'fer), n. 1. Jo-seph von (jō'saf; Ger. yō'zef fōn), 1787-1826, German o-

physicist. 2. a crater in the fourth quadrant of the moon: about 30 miles in diameter.

Frau-hofer lines, the dark lines o

specrum. [named after J. von FRAUNHOFER]

Frau oh-ne Schat-ten, Die (Ger. dī sħāt'n), an opera (1919) by Richard Strauß.

Fra-v-a-shi (fra vā'shē), n. Zoroastrianis

of a dead ancestor. [**< Avestan**]

frax-i-nella (frāks'ē nel'a), n. dittan

[< NL, equiv. to L *fraxin*(us) ash tree -dim. suffix]

frayl (frāl), n. 1. a noisy quarrel; brawl; fig.

or battle. 2. Archaic, fight. —v.t. 3.

frighten. —v.i. 4. Archaic to fight; brawl.

aph. var. of **AFFRAY**]

frayz (frāz), v.t. 1. to wear (cloth, rope, et

raveled threads or fibers at the edge or ei

ravel out. 2. to wear by rubbing (somet

through). 3. to cause strain on (somet

discompose): *The argument frayed their m*

rub. —v.i. 5. to become frayed, as clot

out: *My sweater frayed at the elbows*. 6. to

something: *tall grass fraying against my kn*

a frayed part, as in cloth: *frays at the toes* sneakers. [ME *frāie(n)* < OF *fray(er)*, *rub* < L *frāre*. See **FRICITION**]

fraze (frāz), v.t., frazed, frazing. to redu-

eter of (a gear). [var. of **FRAYE**]

Fra-zer (frāz'ər), n. 1. Sir James George

Scottish anthropologist: writer of socio-an-

thropological studies. 2. Also, *Fraser*, a boy's given name.

fra-zil (frāz'əl, frāz'əl, frā zēl', zēl'), :

crystals formed in turbulent water. [**< frāzil**, **frāzilis** F *frāzil* coal cinders, OF *jais*

frazzle (frāz'əl), v., -zled, -zling, n.

—v.i. 1. to fray; wear to threads or to

wear: *Those six eight-year-old*

—n. 3. state of being frizzled or worn-out

nate; shred; shred. [b. **FRAY²** + **fazzle**, ME faze

ravel, C. G. *fazein*]

frazzled (frāz'əld), adj. Informal. worn-

a late party that left us frazzled. [FRAZZLE]

FRB, 1. Federal Reserve Bank. 2. Fed

Board. Also, *F.R.B.*

FRC, Federal Radio Commission.

F.R.C.P., Fellow of the Royal College of

F.R.C.S., Fellow of the Royal College of

freak (frēk), n. 1. a sudden and appre-

hensive notion, occurrence, etc.: *That i*

storm is a freak. 2. any abnormal produc-

unusual object; anomaly; aberration: a

modern sensitivity. 3. a person or animal

as an example of some strange deviation

or mutation. 4. *Numis*. an imperfect coin,

the mint and put into circulation. 5. *Phi*

differing from others of the same printin

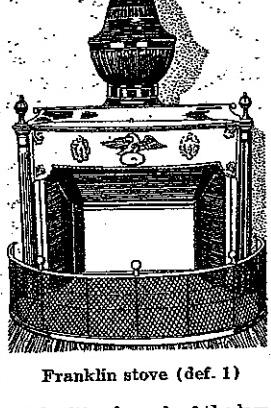


EXHIBIT 4

United States Bankruptcy Court
District of Massachusetts

In re:)
JACALYN S. NOSEK,) Chapter 13
DEBTOR.) Case No. 02-46025-JBR
<hr/>	
JACALYN S. NOSEK,) Adversary Proceeding
PLAINTIFF,) No. 04-4517 and
v.) No. 07-4109
AMERIQUEST MORTGAGE COMPANY,)
<i>et al.</i>)
DEFENDANTS)
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MEMORANDUM OF DECISION REGARDING ORDER TO SHOW CAUSE

This matter came before the court for a hearing on the Court's Order to Show Cause why sanctions should not be imposed for apparent misrepresentations as to the status of Ameriquest Mortgage Company as the holder of the note and mortgage at issue in this case and adversary proceedings.

FACTS

INCLUSION

For the reasons set forth herein, sanctions will be imposed as set forth above on

- Ameriquest in the amount of \$250,000;
- Abtin & Charlton, P.C., formerly known as Abtin & Caruolo, P.C., in the amount of \$25,000;
- Attorney Robert Charlton in the amount of \$25,000;
- Buchalter Nemer Fields & Younger in the amount of \$100,000; and
- [REDACTED] in the amount of \$25,000.

Sanctions will not be imposed on

- Attorney Jennifer Haskell;
- Attorney William Amann;
- Attorney R. Bruce Allensworth; and Kirkpatrick & Lockhart Preston Gates Ellis.

A separate order will issue.

Joel B. Rosenthal
United States Bankruptcy Judge

Dated: April 25, 2008